



# South Dakota Department of Transportation

*Title VI Program Compliance Plan*

South Dakota Department of Transportation  
Division of Secretariat  
Office of Legal Counsel  
Civil Rights Program  
700 East Broadway Avenue  
Pierre, South Dakota 57501-2586

*January 2020*

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## Part I. TITLE VI & NONDISCRIMINATION POLICY STATEMENT

Title VI of the Civil Rights Act of 1964 protects individuals, groups and organizations from discrimination on the basis of race, color or national origin (including LEP) in all programs and activities. In addition, related nondiscrimination authorities prohibit discrimination on other grounds, such as sex, age, low income and disability. Based on the above criteria, the SDDOT program is referred to as the Title VI and Nondiscrimination Program.

The policy of the SDDOT is to ensure that no person or group of persons shall, on the grounds of race, color, national origin (including LEP), sex, age, disability or low-income, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity administered by the Department.

SDDOT is committed to ensuring compliance with 49 Code of Federal Regulations (CFR) Part 21, 49 CFR Part 303, and the FMCSA Standard Title VI Program Assurances.

To ensure compliance with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973, as Secretary of the Department, I have designated June Hansen as the department's Title VI Coordinator/Specialist and ADA Coordinator. Contact information is as follows:

June Hansen, Civil Rights Compliance Officer/ADA Coordinator  
SDDOT – Office of Legal Counsel/Civil Rights Program  
700 E. Broadway Ave.  
Pierre, SD 57501  
Phone: 605-773-3540      Fax: 605-773-4442  
Email: [june.hansen@state.sd.us](mailto:june.hansen@state.sd.us)

As Secretary of the Department, I delegate the responsibility to assure the implementation of the Title VI and Nondiscrimination Program to the Division Directors, the Civil Rights Compliance Officer (Title VI Coordinator/Specialist) and to all other personnel involved with activities impacted by Title VI and related nondiscrimination authorities.

Date

  
Darin P. Bergquist, Secretary  
South Dakota Department of Transportation

## Part II. TITLE VI ASSURANCES

### The United States Department of Transportation

### Standard Title VI/Non-Discrimination Assurances

#### DOT Order No. 1050.2A

The South Dakota Department of Transportation (herein referred to as the “Recipient”), **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the United States Department of Transportation (DOT), through the **Federal Motor Carrier Safety Administration (FMCSA)**, is subject to and will comply with the following:

#### Statutory/Regulatory Authorities

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Title IX of the Education Amendments of 1972, as amended, (20 U.S.C. § 1681 *et seq.*), (prohibits discrimination on the basis of sex in education programs or activities);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability);
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 *et seq.*), (prohibits discrimination on the basis of disability);
- 49 C.F.R. Part 21 (entitled *Nondiscrimination In Federally-Assisted Programs Of The Department Of Transportation—Effectuation Of Title VI Of The Civil Rights Act Of 1964*);
- 49 C.F.R. Part 27 (entitled *Nondiscrimination On The Basis Of Disability In Programs Or Activities Receiving Federal Financial Assistance*);
- 49 C.F.R. Part 28 (entitled *Enforcement Of Nondiscrimination On The Basis Of Handicap In Programs Or Activities Conducted By The Department Of Transportation*);
- 49 C.F.R. Part 37 (entitled *Transportation Services For Individuals With Disabilities (ADA)*);
- 49 C.F.R. Part 303 (FMCSA’s Title VI/Nondiscrimination Regulation);
- 28 C.F.R. Part 35 (entitled *Discrimination On The Basis Of Disability In State And Local Government Services*);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory cites hereinafter are referred to as the “Acts” and “Regulations,” respectively.

Although not applicable to Recipients directly, there are certain Executive Orders and relevant guidance that direct action by Federal agencies regarding their federally assisted programs and activities to which compliance is required by Recipients to ensure Federal agencies carry out their responsibilities. Executive Order 12898, 3 C.F.R. 859 (1995), entitled “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations” emphasizes that Federal agencies should use existing laws to achieve Environmental Justice, in

particular Title VI, to ensure nondiscrimination against minority populations. Recipients should be aware that certain Title VI matters raise Environmental Justice concerns and FHWA intends that all Recipients evaluate and revise existing procedures (as appropriate) to address and implement Environmental Justice considerations. See the following FHWA website for more information and facts about Environmental Justice: [https://www.fhwa.dot.gov/environment/environmental\\_justice/index.cfm](https://www.fhwa.dot.gov/environment/environmental_justice/index.cfm).

Additionally, Executive Order 13166, 3 C.F.R. 289 (2001) on Limited English Proficiency, according to the U.S. Department of Justice in its Policy Guidance Document dated August 16, 2000 (65 Fed. Reg. at 50123), clarifies the responsibilities associated with the “*application of Title VI’s prohibition on national origin discrimination when information is provided only in English to persons with limited English proficiency.*” When receiving Federal funds Recipients are expected to conduct a Four-Factor Analysis to prevent discrimination based on National Origin. (See also U.S. DOT’s “*Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient (LEP) Persons,*” dated December 14, 2005, (70 Fed. Reg. at 74087 to 74100); the Guidance is a useful resource when performing a Four-Factor Analysis).

### **General Assurances**

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

*“No person in the United States shall, on the grounds of race, color, national origin, sex, age, disability, low-income, or LEP be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives Federal financial assistance from DOT, including the FMCSA.”*

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973) by restoring the broad, institutional-wide scope and coverage of these non-discrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally-assisted.

### **Specific Assurances**

More specifically, and without limiting the above general Assurances, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted **FMCSA Program**:

1. The Recipient agrees that each “activity,” “facility,” or “program,” as defined in §§ 21.23 (b) and 21.23 (e) of 49 C.F.R. § 21 will be (with regard to an “activity”) facilitated, or will be (with regard to a “facility”) operated, or will be (with regard to a “program”) conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations;
2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with all Federal Motor Carrier Safety Programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

*“The **South Dakota Department of Transportation**, in accordance with the*

*provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, all contractors will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of the owner's race, color, national origin, sex, age, disability, income-level, or LEP in consideration for an award.”;*

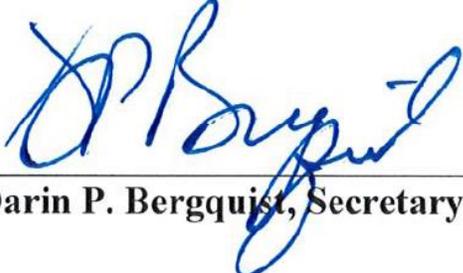
3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations;
4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient;
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith;
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property;
7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
  - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
  - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
  - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
  - b. the period during which the Recipient retains ownership or possession of the property.
9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.

10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the South Dakota Department of Transportation also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the **FMCSA** access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the **FMCSA**. You must keep records, reports, and submit the material for review upon request to **FMCSA**, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

South Dakota Department of Transportation gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the Department of Transportation under the **FMCSA Program**. This ASSURANCE is binding on South Dakota, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the **FMCSA Program**. The person (s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

**South Dakota Department of Transportation**

by  \_\_\_\_\_  
**Darin P. Bergquist, Secretary of Transportation**

DATED  \_\_\_\_\_

## ASSURANCE APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA), as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations as set forth in Appendix E, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor’s obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the FMCSA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the FMCSA, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor’s noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the FMCSA may determine to be appropriate, including, but not limited to:
  - a. withholding payments to the contractor under the contract until the contractor complies; and/or
  - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the FMCSA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

**ASSURANCE APPENDIX B**  
**CLAUSES FOR DEEDS TRANSFERING UNITED STATES PROPERTY**

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

**NOW, THEREFORE**, the Department of Transportation as authorized by law and upon the condition that the South Dakota Department of Transportation will accept title to the lands and maintain the project constructed thereon in accordance with (*Name of Appropriate Legislative Authority*), the Regulations for the Administration of **Federal Motor Carrier Safety Administration (FMCSA) Program**, and the policies and procedures prescribed by the **FMCSA** of the Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the South Dakota Department of Transportation all the right, title and interest of the Department of Transportation in and to said lands described in Exhibit "A" attached hereto and made a part hereof.

**(HABENDUM CLAUSE)**

**TO HAVE AND TO HOLD** said lands and interests therein unto South Dakota Department of Transportation and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the South Dakota Department of Transportation, its successors and assigns.

The South Dakota Department of Transportation, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]\* (2) that the South Dakota Department of Transportation will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the Department of Transportation and its assigns as such interest existed prior to this instruction.\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purpose of Title VI.)

**ASSURANCE APPENDIX C**  
**CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE**  
**ACTIVITY, FACILITY OR PROGRAM**

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the South Dakota Department of Transportation pursuant to the provisions of Assurance 7(a):

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add “as a covenant running with the land”] that:
  - 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, South Dakota Department of Transportation will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.\*
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the South Dakota Department of Transportation will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the South Dakota Department of Transportation and its assigns.\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary to effectuate the purpose of Title VI.)

**ASSURANCE APPENDIX D**  
**CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER**  
**THE ACTIVITY, FACILITY OR PROGRAM**

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by South Dakota Department of Transportation pursuant to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, “as a covenant running with the land”) that (1) no person on the ground of race, color, national origin, sex, age, disability, income-level, or LEP will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, national origin, sex, age, disability, income-level, or LEP will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
  
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non-discrimination covenants, South Dakota Department of Transportation will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.\*
  
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, South Dakota Department of Transportation will there upon revert to and vest in and become the absolute property of South Dakota Department of Transportation and its assigns.\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary to effectuate the purpose of Title VI.)

## ASSURANCE APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin), as implemented by 49 C.F.R. § 21.1 *et seq.* and 49 C.F.R. § 303;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (102 Stat. 28.), (“...*which restore[d] the broad scope of coverage and to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964.*”);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 -- 12189) as implemented by Department of Justice regulations at 28 C.F.R. parts 35 and 36, and Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*), as implemented by 49 C.F.R. § 25.1 *et seq.*

### **Part III. DESCRIPTION OF FEDERAL-AID PROGRAMS**

The South Dakota Department of Transportation (SDDOT) is the state agency responsible for efficiently providing a safe and effective public transportation system for the state. SDDOT receives federal-aid funding from the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration and Federal Motor Carrier Safety Administration to support the various transportation programs.

SDDOT is applying for an Innovative Technology Deployment (ITD) grant to support deployment of systems that improve safety and efficiency of commercial vehicle operations in South Dakota. These systems include:

- International Registration Plan
- International Fuel Tax Agreement
- South Dakota Automated Commercial Vehicle Permitting System
- Electronic Screening at Interstate Ports of Entry and Key Non-Interstate Weigh Stations
- Commercial Vehicle Information Exchange Window

SDDOT complies with all FMCSA requirements for the Innovative Technology Deployment program.

SDDOT provides equal access to all programs and services including minorities. South Dakota does have nine recognized American Indian Tribes which have large land-based reservations served by the SDDOT. There are no direct benefit programs administered by the SDDOT.

## Part IV. NOTIFICATION TO BENEFICIARIES/PARTICIPANTS

The [South Dakota Department of Transportation](#) gives public notice of its' policy to uphold and assure full compliance with the non-discrimination requirements of Title VI of the Civil Rights Act of 1964 and related Nondiscrimination authorities. Title VI and related Nondiscrimination authorities stipulate that no person in the United States of America shall on the grounds of race, color, national origin, sex, age, disability, income level or Limited English Proficiency be excluded from the participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance.

Any person who desires more information regarding South Dakota Department of Transportation's Title VI Program can contact its Title VI Coordinator [June Hansen](#) -- at the address noted below.

Any person who believes they have, individually or as a member of any specific class of persons, been subjected to discrimination on the basis of race, color, national origin, sex, age, disability, income level or Limited English Proficiency has the right to file a formal complaint. Any such complaint must be in writing and submitted within 180 days following the date of the alleged occurrence to:

[June Hansen, Civil Rights Compliance Officer/Title VI Coordinator](#)  
Department of Transportation  
Office of Legal Counsel – Civil Rights Program  
700 E. Broadway Ave.  
Pierre, SD 57501  
605-773-3540  
[june.hansen@state.sd.us](mailto:june.hansen@state.sd.us)

This notice has been posted publicly-accessed facilities and on the department's website.

## Part V. SUB-RECIPIENT COMPLIANCE REPORTS

***Please note: SDDOT does not anticipate any subrecipients to the Innovative Technology Deployment grant. The following is SDDOT's standard process for ensuring compliance with Title VI by subrecipients.***

### A. Subrecipient Monitoring

1. Subrecipients are those persons or entities that indirectly receive federal financial assistance to carry out a program or activity.
  - i. Includes localities, consultants, contractors, colleges, universities, metropolitan planning organizations, suppliers, transit providers, and others.
  - ii. Subrecipients are subject to Title VI compliance responsibilities and will be monitored for Title VI compliance by the Title VI Coordinator/Specialist.
2. Subrecipients must sign nondiscrimination assurances, follow all the same rules and laws as recipients, and ensure that there is no discrimination based on race, color, national origin, religion, sex, age, or disability.
3. Subrecipients may adapt or adopt the Departments plan and practices or abide by the procedures proscribed by the Department.
4. The Title VI Coordinator/ Specialist will review each on-going subrecipient on a rotating basis every three years. If a problem arises, there will be a review sooner.
5. A preaward checklist will be sent to all subrecipients and reviewed prior to receipt of federal funds. Any areas of non-compliance will be addressed prior to award of federal funds. A subrecipient is only required to complete a checklist once every Federal fiscal year.
6. Post-award review will be conducted when the project or grant is completed.

### B. Pre-award reviews

1. Each subrecipient will complete a preaward checklist prior to receiving federal funding.
  - i. The checklist will be mailed out prior to award.
  - ii. Checklist will be returned to Title VI Specialist for review.
  - iii. Any issues of non-compliance will be discussed with the subrecipient and informal resolution will be used to achieve compliance.
  - iv. If unable to resolve manner through informal resolution, the award of Federal funds will be held until compliance is achieved.
2. The Department will conduct more in-depth preaward reviews prior to releasing funds to ensure that recipients have submitted assurances of Title VI compliance on an as needed basis or based on concerns about subrecipients compliance.
3. The review can be a desk-audit review, where recipient submits assurance compliance forms, or an onsite review, where an extensive investigation of the recipient's program is conducted in the field at program

offices.

4. If a Title VI violation is found, the Department will attempt to secure voluntary compliance. If that fails, the Department can either withholding or deny Federal funds.
5. Subrecipients that receive federal funds on an on-going (yearly) basis will complete a pre-award checklist every three years.

#### C. Post-award reviews

1. Once a recipient has received Federal funds, the Department will review them periodically to ensure the recipient remains in compliance with Title VI.
2. Subrecipients that receive federal funds on an on-going (yearly) basis will be reviewed every three years either by desk review or on-site review.
3. The review can be desk-audit review or extensive onsite compliance reviews.
4. Steps to conducting inspections:
  - i. Compliance Plan which should include:
    1. A program and schedule for compliance reviews
    2. Uniform standards for conducting and reporting compliance reviews
    3. Policies and procedures for uniform evaluations of compliance reviews
  - ii. Preliminary Preparation includes:
    1. Review of Department files to determine the nature of recipient services, type of Federal assistance and Title VI Assessment
    2. Review of pertinent assurance, policy statement and statements of compliance
    3. Review of any compliance reports to determine recipient's self-evaluation
    4. Review of any complaints, lawsuits, or previous investigations of recipient
  - iii. Scope of Compliance Review, which should be done at the outset to determine whether review should be extensive or limited to particular program areas. This involves an analysis of:
    1. Nature and extent of recipient's operation
    2. Applicable laws, regulations and authorities
    3. Complaints and/or lawsuits
  - iv. Notifying Recipient requires advance notice through a letter. This is done to:
    1. give recipient opportunity to have various data, records, witnesses and staff available
    2. as a matter of courtesy and to maintain partnering relationship

- v. Onsite Compliance Review should start with an entrance meeting with leadership and pertinent personnel. The review should:
  - 1. Provide sufficient information to determine recipient's compliance
  - 2. Include final report of findings, conclusions, and recommendations
  - 3. Report that recipient is obligated to cooperate by keeping and providing records/other data, and permitting access to records
- vi. Closing Conference is done to:
  - 1. Provide leadership of recipient with preliminary findings
  - 2. Inform recipient when final report is submitted

## **Part VI. TRAINING**

- A. Conduct training for MPO personnel on Title VI, ADA and LEP and reviewed requirements for Title VI Review yearly.
- B. Conduct Title VI, ADA & LEP training for Rural Transit providers yearly.
- C. Conducted training to Executive Management on Title VI. Provided an update on the OJT program and ADA accomplishment report.
- D. Developing web-based Title VI training for all supervisory staff to be online in early 2020.
- E. FMCSA basic Title VI Program PowerPoint presentation was made available to all SDDOT staff working with ITD to review. FMCSA Title VI training will be provided to SDDOT staff dealing with the grant every two years. A limited number of SDDOT staff work on the grant. The majority of the employees who work on FMCSA programs work for the South Dakota Department of Public Safety which is a separate state agency with its own Title VI Program Compliance Plan and training program. Training will be held in 2020 and a copy of the training record will be provided to FMCSA by September 1, 2020.

## **Part VII. ACCESS TO RECORDS**

All records regarding Title VI activities will be collected and maintained by the SDDOT Office of Research and the Civil Rights Programs. These records will be made available to FMCSA officials in person upon request or any reports will be transmitted electronically.

## Part VIII. COMPLAINT DISPOSITION PROCESS

### A. Complaint investigations

1. The Civil Rights Compliance Officer will make him/her known to all office and program managers with the Department and, with the assistance of these managers, will attempt to resolve all Civil Rights complaints arising from Department activities.
2. In addition, the Civil Rights Compliance Officer will make periodic visits to any locations and/or areas determined to be problematic in an attempt to alleviate any problems in advance of a complaint.
3. The following complaint procedures are applicable to all Department program areas:
  - i. Any person or group claiming discrimination based on race, color, national origin, sex, age or disability may by himself/herself or through his/her legally authorized representative, make and sign a complaint and should file such complaint with the Department within 300 calendar days (180 days if a company has less than 15 employees or if this involves age discrimination) following the date of the alleged discriminatory action. All complaints will be filed with the Department Civil Rights Compliance Officer who will evaluate the complaint and gather additional information from the complainant if necessary. The appropriate program area manager and division director will be notified of the complaint.
  - ii. The Civil Rights Compliance Officer or designee has 60 calendar days to conduct an investigation of the allegations and prepare preliminary findings. The Civil Rights Compliance Officer or designee may refer the matter to the appropriate program area to make every reasonable effort to resolve the complaint as quickly as possible or attempt informal resolution through other methods
  - iii. All complaints that cannot be quickly (within 30 calendar days from the preliminary findings being issued) resolved will be reviewed by a committee consisting of the Secretary of the Department or his or her designee, the Civil Rights Compliance Officer and the program manager involved. The committee will hold an informal hearing with the complainant seeking resolution and will render a decision regarding the complaint within 15 working days of the hearing.
  - iv. When the Department arrives upon a final decision regarding the complaint filed with the Department, it will notify the complainant in writing of the decision and of the complainant's rights, if dissatisfied with the decision, to bring the matter to the attention of the appropriate federal agency, typically the Federal Highway Administration (FHWA), Federal Transit Administration (FTA) or Federal Motor Carrier Safety Administration (FMCSA). The Department will advise the complainant of the name and address of

- the agency and/or individual to contact.
- v. The Department will provide the federal agency with a copy of the complaint along with any investigatory report within 60 calendar days of the filing of the complaint. The Department will also furnish the federal agency a report indicating final disposition of the complaint within 5 working days of advising the complainant of the disposition.
  - vi. The Department, acting through the Civil Rights Compliance Officer, will expedite all discrimination complaints filed by individuals, business, group or institution. Information regarding the complaint process will be provided through Department publications, Department program activities, and individual personal contact with persons affected by Department activities.
4. A log of all complaints and investigations will be kept. The log will identify the race, color, sex, national origin (including LEP), age, disability or low income of the individual making the complaint; recipient of the complaint; date filed; investigation completion date; disposition and other pertinent information.

The SDDOT maintains a Title VI complaint log that includes all the pertinent data required by FMCSA. There have been no Title VI complaints filed.

### **Part IX. STATUS OF CORRECTIVE ACTIONS IMPLEMENTED BY APPLICANT TO ADDRESS DEFICIENCIES PREVIOUSLY IDENTIFIED DURING A TITLE VI PROGRAM COMPLIANCE REVIEW**

The SDDOT has had no Title VI deficiencies identified by any previous FMCSA Title VI review or other federal agency review.

### **PART X. COMMUNITY PARTICIPATION PROCESS**

The SDDOT does not provide/conduct motorist licensure/motor vehicle registration-related services/activities. This section does not apply.